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10 *Counsel for Unsecured Creditors Committee*

11  
12 **IN THE UNITED STATES BANKRUPTCY COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

14 In re:

15 NUTRACEA, a California  
16 corporation,

17 Debtor.

Chapter 11 Proceedings

Case No. 2:09-bk-28817-CGC

**OBJECTION TO EXPEDITED SALE  
HEARING AND MOTION TO CONTINUE  
HEARING AND ALL RELEVANT DATES**

18 The Official Committee of Unsecured Creditors (“Committee”) objects to the  
19 Debtor’s expedited hearing for the sale of significant assets currently set for March 1, 2010  
20 (“Sale Hearing”). Debtor’s sale motion requests approval of the sale of its infant cereal  
21 business and all related equipment for \$3.9 million (“Sale Motion”). The Hearing has been  
22 scheduled such that the Committee has no realistic time to analyze the sale and more  
23 importantly, any potential bidders are shut out of the process. The Committee requests the  
24 Hearing and be continued for 45 days and all related dates be extended accordingly.

25 The Current Timelines

26 Debtor filed its Sale Motion after the close of business on February 11, 2010. At  
the same time, it filed a motion to establish bidding procedures (“Bidding Motion”) and its  
requests for expedited relief. A hearing has been scheduled on the Bidding Motion for

1 February 18, 2010 with the Sale Hearing to occur 11 days later. The proposed Order  
2 approving the Bidding Motion requires potential bidders to qualify by providing a  
3 confidentiality agreement, financing commitment and a written offer by February 24th. The  
4 Sale Motion (page 8) provides that notice of the sale is to be provided within one business  
5 day after approval of the Bidding Motion, so February 19th assuming approval. Thus,  
6 potential bidders will have less than 3 business days to perform due diligence and make an  
7 offer. The objections to the Sale Motion are due on February 24th.

8 Debtor's Refusal to Provide Information to the Committee

9 Since the commencement of its bankruptcy in November 2009, Debtor has  
10 consistently referred in its pleadings to a need and a plan to "monetize certain of its assets."  
11 However, it has until the filing of the Sale Motion **refused** to provide **any** information to the  
12 Committee.

13 At a status hearing on January 12, 2010, Debtor's counsel told the Court it had  
14 received two letters of intent for the purchase of a portion of its assets. On January 21st,  
15 Committee counsel requested copies of the LOI's—**no** response. On January 27th,  
16 Committee counsel again requested information on any potential sale—**no** response. On  
17 January 18th, Committee counsel requested weekly financial reports and on January 27th  
18 requested answers to various financial questions—**no** response.

19 On February 4, 2010, Debtor's counsel asked if Committee counsel would meet  
20 the next day about the current sale. At that meeting however, Debtor's counsel **refused** to  
21 disclose the purchaser, provide a copy of the proposed asset purchase agreement or any other  
22 information whatsoever about the sale, even though all the information had been provided to  
23 Wells Fargo Bank. Counsel promised the Sale Motion would be filed on February 8th; it  
24 was filed late on the 11th and all hearings were scheduled on the 12th. Prior to the filing of  
25 the Sale Motion, Committee counsel had asked to meet with Debtor's counsel and the  
26 Debtor's financial advisor on February 15th in anticipation of the Sale Motion, but that was

1 never scheduled.

2 At the February 5th meeting, Debtor's counsel provided for the first time its  
3 weekly reports of financial activity despite earlier requests. The Debtor has **failed** to file its  
4 January Operating Report and now February is due. The Debtor has even **refused** to provide  
5 a copy of a power point presentation about its business which would have given the  
6 Committee an overview of the very business about to be sold. (See e-mail correspondence  
7 regarding the foregoing attached as Exhibit A).

8 In its Sale Motion, Debtor says the sale is an emergency. But time records for  
9 Debtor's general and special counsel reflect that they have been working on this deal since  
10 December.

11 The Timelines Are Unrealistic and Fail to Provide Due Process

12 The Debtor's proposed sale is hardly a fair process. The Sale and Bidding  
13 Motions were filed one day prior to a 3-day holiday weekend with no prior disclosure  
14 whatsoever to the Committee. The Committee, and any creditors or other parties in interest  
15 for that matter, will have had two-business days to review and object to the Bidding Motion  
16 and 7 business days to object to the Sale Motion. There is no meaningful opportunity to  
17 analyze this sale in this time-frame. The Committee is forced to start from square one given  
18 the Debtor's absolute refusal to provide any information. The proposed time-lines do not  
19 provide for appropriate time to make a determination as to whether this sale is remotely in  
20 the best interest of creditors. There is insufficient time to inquire about valuations, other  
21 offers, potential purchasers or the \$150,000 break-up/reimbursement fee. There is  
22 insufficient time for the Committee to confer and make reasonable decisions.

23 There is no meaningful opportunity for bidding. Even if the Bidding Motion is  
24 granted at the February 18th hearing, bidders will have less than 3 business days in which to  
25 sign a confidentiality agreement, provide evidence of financial wherewithal, make a  
26 \$250,000 deposit and submit a bid. To say this is an absolute chilling of the bidding is an

1 understatement.

2 In accordance with due process and all equitable principles as established in the  
3 Bankruptcy Code with respect to sales, the motions cannot go forward as scheduled.

4  
5 Request for Relief

6 The Committee requests the following relief:

- 7 • That the hearing on the Bidding Motion be continued until February 23, 2010  
8 with objections due one day prior.
- 9 • That the Committee be provided all information about the sale on an expedited  
10 basis.
- 11 • That the Sale Hearing be continued until the week of April 12th. This is  
12 realistic given the Debtor's refusal to provide information and the need for the  
13 Committee to properly analyze whether the sale is in the best interest of  
14 creditors.
- 15 • That all deadlines be extended accordingly. Assuming bidding procedures can  
16 be approved, this will give sufficient time for adequate noticing of the Sale  
17 Motion and appropriate time, albeit it quick, for potential bidders to conduct  
18 due diligence and submit a bid.

19 Dated this 16th day of February, 2010.

20 JENNINGS, STROUSS & SALMON, P.L.C.

21 By /s/ Carolyn J. Johnsen - 011894  
22 Carolyn J. Johnsen  
23 Counsel for Unsecured Creditors  
Committee

24 COPY of the foregoing mailed and/or e-mailed  
25 this 16th day of February, 2010, to all parties on the  
attached Service List.

26 /s/ Jeannie Baker

**NUTRACEA UNSECURED CREDITORS COMMITTEE  
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